

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 0:22-CV-61553-DIMITROULEAS/HUNT

CRUZ VALDIVIESO FIGUERA,

Plaintiff,

vs.

ALL VIP CARE INC. AND LIZ
VELAZQUEZ MCKINNON,

Defendants.

_____/

PLAINTIFF'S RENEWED MOTION FOR WRIT OF EXECUTION

Plaintiff, Cruz Valdivieso Figuera, through her undersigned counsel and pursuant to Fed. R. Civ. P. 64 and ECF Nos. 191 and 192, requests that the Court instruct the Clerk of Courts to issue a Renewed Writ of Execution in the form appended hereto based upon the following good cause:

1. On November 2, 2023, this Court entered its Final Judgment in which it awarded Plaintiff the amount of \$1,768.00 [ECF No. 130], which Defendant All VIP Care, Inc., satisfied.
2. A Report and Recommendation was entered on August 15, 2024, awarding Plaintiff and her counsel \$145,067.50 in attorney's fees and costs of \$4,006.41, for a total award of \$149,073.91. [ECF No.175.]
3. Court entered its Order Adopting and Approving the Report and Recommendation, awarding Plaintiff's counsel \$145,067.50 in attorney's fees and costs of \$4,006.41, for a total award of \$149,073.91. [ECF No. 182].

4. This Court's Order Adopting and Approving [ECF No. 182] constitutes a money judgment. *See Ricci v. Exch. Miami, LLC*, 2020 WL 13401241, at *2 (S.D. Fla. July 29, 2020)(Becerra, M.J.) (determining that "In the present case, the Court's Order on Motion for Attorneys' Fees and Costs, ECF No. [52], constitutes a money judgment that does not need to be entered in a separate document")(Citing *Combs v. Ryan's Coal Co., Inc.*, 785 F.2d 970, 980–81 (11th Cir. 1986), and *National Labor Relations Board v. Tropical Wellness Center, LLC*, 2019 WL 2254921, at *4 (S.D. Fla. Mar. 11, 2019), *report and recommendation adopted*, 2019 WL 2255566 (S.D. Fla. Mar. 29, 2019).)

5. Defendants, All VIP Care, Inc. and Liz Velazquez McKinnon, signed a Verified Agreement and Release ("Agreement"), which they presented to the Court for acceptance and approval. [ECF No. 191.]

6. In granting the relief requested in ECF No. 191, the Court's Order states that it "accepts and approves the parties' Agreement." [ECF No. 192.]

7. Under the terms of the parties' Agreement, Defendant, All VIP Care, Inc., was to deliver \$50,000 to the office of the undersigned by 4:00 p.m., on Friday, October 25, 2024. [ECF No. 191-2.]

8. Defendants agreed that if they did not comply, then they would be subject to the following:

Defendants further agree that should they fail to timely deliver to FairLaw Firm at 135 San Lorenzo Avenue, Suite 770, Coral Gables, Florida 33146, the remaining \$50,000.00 by 4:00 p.m. on October 25, 2024, FairLaw Firm shall be entitled to (a) immediate execution on the entirety of the attorney's fees and costs awarded by the Court (\$149,073.91) against Defendants, All VIP Care Inc. and Liz Velazquez McKinnon, jointly and severally, (b) all interest accrued thereon since September 4, 2024....

[ECF No. 191-1.]

9. Defendants never paid the \$50,000. [*See* ECF NO. 195.]

10. Under the terms of the parties' Agreement, and as "accept[ed] and approve[d]" by the Court, the undersigned is entitled to "(a) immediate execution on the entirety of the attorney's fees and costs awarded by the Court (\$149,073.91) against Defendants, All VIP Care Inc. and Liz Velazquez McKinnon, jointly and severally, (b) all interest accrued thereon since September 4, 2024...." [ECF Nos. 191-192.]

11. The award of \$149,073.91 remains due, payable, and outstanding, since September 4, 2024, according to the above.

12. Plaintiff seeks to enforce the money judgment(s) against Defendants, All VIP Care Inc. and Liz Velazquez McKinnon, pursuant Fed. R. Civ. P. 69(a) through a Writ of Execution.

13. Local Rule 7.1 specifically exempts post-judgment collection/execution motions from the conferral requirement, so none has been made concerning this Motion.

WHEREFORE Plaintiff, Cruz Valdivieso Figuera, requests that the Court direct the Clerk of Courts to issue a renewed Writ of Execution in the form appended hereto.

Dated this 18th day of November 2024.

s/Brian H. Pollock, Esq.
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